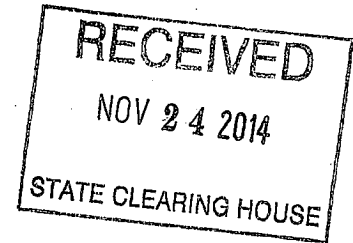




November 20, 2014



Ken Alex, Director
Governor's Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812

Subject: Comments on Preliminary Discussion Draft of Updates to the CEQA Guidelines
Implementing SB 743

Dear Mr. Alex:

Thank you for the opportunity to provide comments regarding Office of Planning and Research (OPR) efforts to amend CEQA (California Environmental Quality Act) Guidelines, as required by Senate Bill 743 (SB 743). This letter specifically responds to the report titled "Updating Transportation Impacts Analysis in the CEQA Guidelines," written by the Office of Planning and Research (OPR) dated August 6, 2014 (hereafter called the "Draft Guidelines"). The Alameda County Public Works Agency's comments are as follows:

1. Lack of Proper Tools to Conduct VMT Analysis at an Individual Project Level.

Currently, there are very few data sources and analysis models that could generate comparable results on VMT for a single project. Providing that a development project that "results in vehicle miles traveled greater than [the] regional average for the land use type ... may indicate a significant impact" (Draft Guidelines Section 15064.3(b)(1)), it must be acknowledged that there are few, if any, models that purport to be able to accurately characterize VMT at a project-specific level for infill projects. The absence of such models will lead to increased study costs (at a minimum) and litigation/enforcement uncertainty as opponents will have a new tool to use in CEQA lawsuits aimed at stopping or delaying a project. Alternatively, if OPR wants to promote VMT as a new CEQA impact for which mitigation and/or alternatives are required "to the greatest extent feasible" consistent with CEQA's current framework, then OPR should start by partnering with regional and local agencies to develop VMT models that it believes are effective at a project level, and then pilot these in volunteer jurisdictions.

Recommendation: OPR should consider a “trial” period to test the tools available to local agency staff for analyzing the new metric of VMT before the new guidelines become mandatory. Establishing a trial period on the use of the new guidelines will allow local agencies and OPR staff to determine what does and doesn’t work, and establish “best practices” for the new metrics. In addition, OPR should consider developing a training manual and offering internet-based and/or in-person training for CEQA practitioners

2. Development of Relevant VMT Thresholds of Significance

One of the key features is the proposal to use “regional” VMT averages as the threshold of significance against which a project’s impacts will be measured. The proposed VMT approach using regional averages will not correctly identify whether a project has a significant impact. For example, an 80-unit residential development located in the rural eastern portion of the county will very likely result in more VMT per capita than if the same project is built within the more dense urban areas.

Recommendation: We request that OPR allow each region via MPOs or CMAs to collaborate with local jurisdictions to develop meaningful and separate VMT thresholds to identify a true representation of impacts based on the context where a project is located. For smaller regions where this data may not be readily available, allow the use of a locally identified data source.

3. Establishing Feasible Mitigation Measures for Agriculture and Resource Operations in Rural Areas.

Eastern Alameda County is home to a significant number of viticulture businesses (see Livermore Valley Winegrowers Association www.lvwine.org), landfills and quarries. Truck traffic for each of these industries varies, but can have significant volumes at certain times of the year, especially during the harvest season (late summer through fall). VMT-related mitigation measures typically used, such as those listed in the Discussion Draft Guidelines text of proposed amendments: *Appendix F: Energy Conservation - D6. Potential Measures to Reduce Vehicle Miles Traveled* will clearly are not applicable in this context.

Recommendation: Proposed investments for California’s Cap and Trade Program includes investments to develop low carbon transportation, and improving water and agricultural operational efficiency. OPR should partner with the California Air Resources Board (CARB) to develop a pilot-program for this sector of industry in Alameda County, which could be replicated in agriculture and resource areas throughout the state.

4. Transportation Impacts on Alameda County Roadways from Development in Neighboring Jurisdictions.

Alameda County has a number of major transportation facilities that are used as a pass-through route by commuters. In the past, we have successfully pursued legal challenge to planned large residential developments in neighboring counties that will cause an increase in traffic and congestion here, particularly during peak travel periods. VMT does not appear to be a useful metric to analyze inter-regional travel impacts on jurisdictions, especially as a mechanism to exact traffic impact fees from the jurisdictions where the traffic originates.

Recommendation: While the guidelines do not preclude the use of established measures such as LOS for traffic impact fees, a nexus to VMT as intended in the statute should be developed by OPR and regional partners to further support a consistent applicability of the new metric.

5. Impact to Future Funding From Regional Agencies.

As this CEQA requirement changes there is a strong potential that future funding criteria for many funding sources (Transportation Development Act Article 3, Transportation Fund for Clean Air, Signal Synchronization programs by MTC, grants from Caltrans etc.) may also change and may favor jurisdictions that have lower VMT. Furthermore, the Draft Guidelines are calling for "safety analysis" and associated mitigations for any transportation project, and includes in this analysis "increase in automobile speed" as an environmental impact. Projects for reduction in delay and congestion, which in turn potentially increase travel speed, would no longer compete well due to their CEQA impacts. Therefore, regional agencies like MTC and Alameda County Transportation Commission (ACTC) would be reluctant to support and fund many such projects.

Recommendation: Modify the safety analysis elements by eliminating the "increase in automobile speed" as a safety impact for a transportation project.

6. May Impact Transit Operations.

The elimination of Level of Service (LOS) and vehicle delay as the basis for a finding of significance under CEQA when analyzing the impacts of a development may have unintended consequences including increased congestion, rear end accidents, bypass traffic on minor residential roadways and the performance of transit vehicles accessing an area. Since lead agencies no longer would evaluate the delay and congestion using LOS, they would not know the true traffic impacts that require mitigation.

Recommendation: A potential solution could be to analyze the delay using LOS just for the transit vehicles along a corridor to ensure the delays are not getting so significant that they would harm the transit service.

7. New Timeline for Mandatory Compliance/ Recirculation of Final Draft reflecting OPRs Revisions

As currently drafted, the Guidelines propose the new metric to be phased in. Initially they are to be applied to Transit Priority Areas (TPAs) only, and then required Statewide beginning January 1, 2016. The changes required under SB 743 represent a radical departure from the way transportation impacts are to be measured in CEQA analysis. As could be expected, the comment period has generated a large volume of substantial concerns and comments, often calling for significant changes to policies in the Discussion Draft. OPR has indicated that comments received will be incorporated and submitted to the Resources Agency for formal rulemaking.

Recommendation: Alameda County Community Development Agency respectfully requests OPR consider the following actions:

- a) Incorporate comments received to date and revise, and recirculate a Final Draft of the REVISED Guidelines, and
- b) Designate the initial roll-out phase as a trial period of 18 months for representative pilot projects. This phase should include TPAs, PDAs, and rural and suburban areas with applicable project types to analyze the effectiveness of the program as proposed in the Final Draft Guidelines.
- c) If necessary, further revise guidelines based on the conclusions drawn from the trial period pilot projects.

Thank you for the opportunity to provide comments. If you have any questions, please do not hesitate me at (510) 670-6452 or via email at paulk@acpwa.org.

Sincerely,



Paul J. Keener
Transportation Planner

PK:pr

Attachments:

Bay Area VMT Averages by County
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